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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,478	04/13/2001	Kun Zhang	GEMS8081.063	7337
27061	7590	01/14/2005	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC (GEMS)			TRAN, TONGOC	
14135 NORTH CEDARBURG ROAD			ART UNIT	
MEQUON, WI 53097			PAPER NUMBER	

2134

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/681,478

Applicant(s)

ZHANG ET AL.

Examiner

Tongoc Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to Applicant's amendment filed on 8/4/2004. Claims 1, 11, 18 and 22-23 have been amended. Claims 28 is added. Claims 1-28 are pending.

### ***Response to Arguments***

2. Applicant's arguments, see pages 9-10 of remark, filed 8/4/2004, with respect to Provisional Double Patenting have been fully considered and are persuasive. In response to Applicant's argument that the present application and the co-pending applications are not the same invention. Examiner respectfully disagrees. However, in view of the amended claims, Claims 1, 11, 18 and 22 of Statutory-type Double Patenting rejection has been withdrawn.

In response to Applicant's remark to claims 1, 2 and 11, Applicant contends that the cited prior art, Rive fails to teach the activation key is not automatically, self executing or directly enabling the option. Examiner respectfully disagrees. Rive teaches remotely enabling the computer system by the use of password ("the pre-installed application which was previously deactivated or disabled, is then activated or enabled ...this may be performed remotely by the supplier by establishing a network connection...the end user may be given a "use once", or time-limited, password that enables them to enable specific applications..." col. 7, lines 38-55).

In response to Applicant's remark to claim 9. Applicant contends that Rive fails to teach or suggest that "'education requirements' are a factor for evaluation of whether

active option or application should be enabled". However, the claim limitation recites "unqualified customer status includes one of a delinquent account, an exhausted line of credit, a poor credit history and incomplete educational requirement". Therefore, as long as Rive teaches one of the elements recites in the claim limitation, the limitation is met.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The amended limitation recites "including whether the customer is qualified to use the medical device" and "periodically monitoring whether the customer continues to be qualified for the medical device". It is unclear what qualification for the medical device that Applicant intends to encompass.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are:

In respect to claim 28, claim 1 recites the step of "determining whether to grant indefinite use of the option in response to the request based on whether a set of criteria has been satisfied..." whereas dependent claim 28 further comprising "disabling the option upon determining that the set of criteria is unsatisfied". Since the initial granting

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(and enabling) is based on a set of criteria being satisfied and the request from the user is inherently indicating that the option is not enabled, therefore, the step of "disabling the option based on the set of criteria being unsatisfied" could not have occurred.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-11, 13-19 and 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rive (U.S. Patent No. 6,301,666) in view of Nelson et al. (U.S. Patent No. 6,564,104) and further in view of Uchikubo et al. (U.S. Patent No. 6,480,762)

In respect to claims 1 and 22, Rive discloses a method and a computer data signal to permit indefinite use of an inactivated option resident on a device comprising the steps of:

receiving, at a centralized facility, a request from a user for indefinite use of an option resident on a device located remotely from the centralized facility (see col. 1, lines 55-67 and col. 2, lines 9-12);

determining whether to grant indefinite use of the option in response to the request based on whether a set of criteria has been satisfied (see col. 2, lines 1-8);

generating an activation key configured to permit indefinite use of the option in response to an indefinite use grant; transmitting the activation key from the centralized facility to the device; and automatically enabling user access to the option resident on the device in response to reception of the activation key (see col. 15, lines 40-57 and col. 17, lines 38-55).

Determining whether the device is capable of supporting the option requested (see col. 3, lines 13-20, the limitation is met because in order to configure the computer system for the user, determining system compatibility is inherently required).

Rive does not disclose explicitly disclose but Nelson discloses determining (or authenticating) and monitoring user qualification to use a medical device (see col. 5, lines 7-18 and 15, lines 46-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Nelson's authentication and monitoring system user of the medical device with the teaching of Rive's remote enabling of computer system in order to prevent illegal used of the system and to provide better patient care.

Rive does not explicitly disclose but Uchikubo discloses remote control activation of a medical device (see Uchikubo, Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Uchikubo to Rive's remote enabling of computer system to Uchikobo's teaching of remotely activating a medical device for cost effective.

In respect to claim 2, Rive, Nelson and Uchikobo disclose the method of claim 1 wherein the activation key is an alphanumeric identification code (see Rive, col. 17, lines 38-55).

In respect to claim 3, Rive, Nelson and Uchikobo disclose the method of claim 2 wherein the activation key is self-executing to automatically enable the option and further comprises the step of writing the alphanumeric identification code to memory of the device (see Rive, col. 15, lines 45-48).

In respect to claim 4, Rive, Nelson and Uchikobo disclose the method of claim 1, further comprising the step of granting indefinite access to the option resident in memory of a medical imaging device (see Uchikobo, col. 25, lines 20-30).

In respect to claim 8, Rive, Nelson and Uchikobo disclose the method of claim 1 further comprising the steps of: generating a status of a customer;

denying the request if the customer status is unqualified; and  
granting the request if the customer status is qualified (see Rive, col. 17, lines 7-26).

In respect to claim 9, Rive, Nelson and Uchikobo disclose the method of claim 8 wherein an unqualified customer status includes one of a delinquent account, an exhausted line of credit, a poor credit history, and incomplete educational requirements (see Rive, col. 17, lines 7-26).

In respect to claim 10, Rive, Nelson and Uchikobo disclose the method of claim 1 further comprising the step of generating an alphanumeric key specific to at least one of a user identifier, a system identifier, an indefinite user identifier, and an option identifier (see col. 17, lines 52-55).

In respect to claim 11, the amended claim limitation is a system claim that is substantially similar to method claim 1. Therefore, claim 11 is rejected based on the similar rationale.

In respect to claim 13, Rive, Nelson and Uchikobo disclose the system of claim 11 wherein the access code granting recurrent use is transmitted through one of a private communication system and a public communication system (see col. 17, lines 38-42).

In respect to claim 14, the claim limitation is a system claim that is substantially similar to method claim 10. Therefore claim 14 is rejected based on the similar rationale.

In respect to claim 15, Rive, Nelson and Uchikobo disclose the system of claim 12 wherein the computer within the receiving center is further programmed to: determine if a software application upgrade is available for the at least one software application for which recurrent use has been requested; and notify the user of the availability to upgrade the requested software application (see col. 15, line 57-col. 16, line 12).

In respect to claim 16, the claim limitation is a system claim that is substantially similar to method claim 4. Therefore, claim 16 is rejected based on the similar rationale.

In respect to claim 17, the claim limitation is a system claim that is substantially similar to method claim 8. Therefore claim 17 is rejected based on the similar rationale.



In respect to claim 18, the amended claim limitation is a computer program claim that is substantially similar to method claims 1. Therefore, claim 18 is rejected based on the similar rationale.

In respect to claims 19 and 21, the claim limitations are computer program claim that are substantially similar to method claim 8. Therefore, claims 19 and 21 are rejected based on the similar rationale.

In respect to claims 23, 25 and 27, the claim limitations are substantially similar to method claims 4 and 8-9. Therefore claims 23, 25 and 27 are rejected based on the similar rationale.

In respect to claims 24 and 26, the claim limitations are substantially similar to claims 20-21. Therefore, claims 24 and 26 are rejected based on the similar rationale.

5. Claims 5-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rive (U.S. Patent No. 6,301,666) in view of Nelson (U.S. Patent No. 6,564,104) and further in view of Uchikubo (U.S. Patent No. 6,480,762) and Mi et al. (U.S. Patent No. 6,523,067, hereinafter Mi).

In respect to claim 5, Rive discloses the method of claim 1 comprising the step of determining satisfaction of the set of criteria including:

validating a user identifier; determining an option identifier; and determining an indefinite use request identifier (see col. 1, line 55-col. 2, line 12 and col. 17, lines 7-26, the limitation is met because in order for the supplier system to provide service it needs

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to identify whether the request came from an authorized user (user identifier) and the type of computer system application being requested (option identifier) and the form of request being made in order properly response to user request). Rive does not disclose validating a system identifier. However, Mi discloses validating a system identifier to authenticate user, Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Rive's remotely enabling of preinstall software with the teaching of Mi's validating a system identifier for authentication for better security to prevent from password sharing (Mi, col. 1, lines 45-50).

In respect to claim 6. Rive discloses the method of claim 5 further comprising the step of denying the request for indefinite use if the user identifier is invalid (see Rive, col. 17, lines 37-55).

In respect to claim 7, Rive discloses the method of claim 5 further comprising the step of denying the request for indefinite use if the system identifier is invalid (see Mi, col. 1, line 55-col. 2, line 5).

In respect to claim 12, the claim limitation is a system claim that is substantially similar to method claim 5. Therefore, claim 12 is rejected based on the similar rationale.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rive (U.S. Patent No. 6,301,666) in view of Nelson (U.S. Patent No. 6,564,104) and further in view of Uchikubo (U.S. Patent No. 6,480,762) and Lahtinen (WO 99/250086).

In respect to claim 20, Rive discloses the computer program of claim 18. Rive discloses transmit the alphanumeric password to the device over a private communication (see col. Col. 17, lines 38-42) but Rive does not disclose further causing the computer to:

Generate an alphanumeric software key specific to the system identifier. However, Lahtinen discloses generating a software key using subscriber identify module of a mobile station (see Lahtinen, page 2, 4<sup>th</sup> paragraph). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teaching of remotely enabling pre-installed software application with Lahtinen's teaching of generating a software key specific to the system identifier for better security because of variable value of encryption key (Lahtinen, page 1, lines 35-37).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran whose telephone number is (571) 272-3843. The examiner can normally be reached on 8:30-5:00.

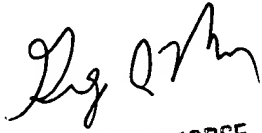
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Tongoc Tran  
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TT

January 10, 2005

  
GREGORY MORSE  
SUPERVISORY PATENT EXAMINER  
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